

STATE BOARD OF EDUCATION
STATE OF GEORGIA

JEFFREY A.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-45
vs.	:	
	:	DECISION
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Jeffrey A. (Student) from a decision by the Fulton County Board of Education (Local Board) to uphold the decision of a Disciplinary Tribunal to expel the Student for one year after finding that he had violated the Local Board's Rule 9, which prohibits the distribution of substances represented to be controlled substances. The expulsion was waived if the Student enrolled in another school and underwent drug counseling before the beginning of the 1995-1996 school year. The Student claims there was insufficient evidence for the Disciplinary Tribunal to find against him. The Local Board's decision is sustained.

At the Disciplinary Tribunal hearing, another student, a seventh grader, testified that in the morning of April 12, 1995, while in homeroom, the Student, who was also in the seventh grade, delivered a package to her, which he said contained LSD.¹ She also testified that she and the Student had previously talked about her finding some friends who were interested in buying some LSD. The Student testified that he did not deliver the package to the student and did not know anything about the incident. The female student testified that she paid for the substance at 8:15 a.m., but the Student testified that he did not arrive at school until 8:30 a.m. because he was sick.

The Disciplinary Tribunal found the Student guilty of violating the Local Board's Rule 9, which prohibits the possession and distribution of any hallucinogen or any substance under the pretense that it is a hallucinogen. The Disciplinary Tribunal expelled the Student for one year, but gave him the option of attending another nearby middle school if he and his mother attended a substance abuse program before the start of the 1995-1996 school year.

On appeal to the State Board of Education, the Student claims that there was no credible evidence to sustain the Disciplinary Tribunal's decision. "The standard for review by the State

¹ The school authorities determined that the substance was not LSD.

Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. *See, Ransum v. Chattooga County Bd. of Educ.*, 144 Ga. App. 783, 242 S.E.2d 374 (1978); *Antone v. Greene County Bd. of Educ.*, Case No. 1976-11 (Ga. SBE, Sep. 8, 1976).” *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). In this case, there was the testimony of the female student that she received the package from the Student. Notwithstanding the female student's participation in the distribution of drugs or a substance that she thought was a controlled substance and any motives she may have had in testifying, her testimony constituted direct evidence that will support the Disciplinary Tribunal's decision. The State Board of Education, therefore, concludes that there was some evidence to sustain the Tribunal's decision and the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the evidence supported the Local Board's decision. The Local Board's decision, therefore, is SUSTAINED.

This 9th day of November, 1995.

Mr. Brinson, Ms. Keeton, Mr. Sessoms and Mr. Williams were not present. The seat for the Tenth District vacant.

Richard C. Owens, Chairman
State Board of Education